

06-0942
Property Tax/Locally Assessed Commercial
Signed 06/04/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	INITIAL HEARING ORDER
)	
Petitioner,)	Appeal No. 06-0942
)	Parcel Nos. #####-1, #####-2
v.)	#####-3, #####-4
)	#####-5
BOARD OF EQUALIZATION OF)	Tax Type: Property Tax/Locally Assessed
SALT LAKE COUNTY,)	Commercial
UTAH,)	Tax Year: 2005
)	
Respondent.)	Judge: Phan

This Order may contain confidential “commercial information” within the meaning of Utah Code Sec. 59-1-404, and is subject to disclosure restrictions as set out in that section and Utah Admin. Rule R861-1A-37. The rule prohibits the parties from disclosing commercial information obtained from the opposing party to nonparties, outside of the hearing process. However, pursuant to Utah Admin. Rule R861-1A-37 the Tax Commission may publish this decision, in its entirety, unless the property taxpayer responds in writing to the Commission, within 30 days of this order, specifying the commercial information that the taxpayer wants protected.

Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REPRESENTATIVE 1, Attorney At Law
PETITIONER REPRESENTATIVE 2
PETITIONER REPRESENTATIVE 3
For Respondent: RESPONDENT REPRESENTATIVE 1, Deputy Salt Lake District
Attorney
RESPONDENT REPRESENTATIVE 2, Appeals Manager, Salt
Lake County
RESPONDENT REPRESENTATIVE 3, Certified General
Appraiser

STATEMENT OF THE CASE

Petitioner brings this appeal from the decision of the County Board of Equalization. This matter was argued in an Initial Hearing pursuant to the provisions of Utah Code Sec. 59-1-502.5, on February 22, 2007. Petitioner is appealing the assessed value as

established for the subject property by the Salt Lake County Board of Equalization. The lien date at issue is January 1, 2005.

APPLICABLE LAW

All tangible taxable property shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless otherwise provide by law.

(Utah Code Ann. Sec. 59-2-103 (1).)

“Fair market value” means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. (Utah Code Ann. 59-2-102(12).)

(1) Any person dissatisfied with the decision of the county board of equalization concerning the assessment and equalization of any property, or the determination of any exemption in which the person has an interest, may appeal that decision to the commission by filing a notice of appeal specifying the grounds for the appeal with the county auditor within 30 days after the final action of the county board. . . . (4) In reviewing the county board’s decision, the commission shall adjust property valuations to reflect a value equalized with the assessed value of other comparable properties if: (a) the issue of equalization of property values is raised; and (b) the commission determines that the property that is the subject of the appeal deviates in value plus or minus 5% from the assessed value of comparable properties. (Utah Code Ann. Sec. 59-2-1006(1)&(4).)

To prevail in a real property tax dispute, the Petitioner must (1) demonstrate that the County's original assessment contained error, and (2) provide the Commission with a sound evidentiary basis for reducing the original valuation to the amount proposed by Petitioner. *Nelson V. Bd. Of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997).

DISCUSSION

The subject property consists of five parcels and is located at approximately ADDRESS 1, CITY 1, Utah. The Salt Lake County Assessor’s Office had originally set the combined value of all five parcels, as of the lien date at \$\$\$\$\$. The Salt Lake County Board of Equalization sustained the values for all parcels. The size and values as sustained by the County Board of Equalization are as follows:

Parcel No.	Reference	Size	Board of Equalization Value
#####-1	(“018”)	1.12 acres	\$ \$\$\$\$\$
#####-2	(“4001”)	3.44 acres	\$ \$\$\$\$\$
#####-3	(“4002”)	32.33 acres	\$ \$\$\$\$\$
#####-4	(“016”)	2.40 acres	\$ \$\$\$\$\$
#####-5	(“011”)	4.69 acres	\$ \$\$\$\$\$

Parcels #####-1, #####-2, #####-3 and #####-4 are contiguous to each other and have some frontage on (X). Together there are 39.29 acres and are somewhat triangular in shape. The topography slopes steeply down from (X), which limits both access and visibility. The property is vacant and substantially unimproved. It is likely that this group of parcels would be developed together. As of the lien date the properties were zoned for manufacturing, M-1 and M-2. However, Petitioner points out that the City’s current master plan for the area indicates offices and apartments. The property had been used at one point as a gravel pit.

Parcel #####-5 is separated from the other parcels by a UTA right of way and rail line. This parcel has 4.69 acres and has access from (X). Because it is physically separated, it would not likely be developed as a unit with the other parcels.

At the hearing Petitioner’s representatives argued that they had gone through a hearing on the value of the subject properties for tax year 2004. They state that it was their understanding they had an agreement with Respondent, pursuant to which Respondent’s 2005 value would be based on the value determined from the 2004 hearing with some reasonable

percentage increase for market appreciation. The combined value for all five parcels that resulted from the Tax Commission decision for the 2004 tax year had been \$\$\$\$\$. They argued that the County acted in bad faith by increasing the combined value of the five parcels to \$\$\$\$\$ for the 2005 year.

Petitioner's representatives submitted the appraisal that they had submitted for the prior year's appeal. The appraisal had been prepared by the COMPANY A and had concluded that as of January 1, 2003, the value of all five parcels combined was \$\$\$\$\$. This was the same value conclusion that was adopted by the County Board of Equalization for 2004. The County Assessor had appealed this value to the State Tax Commission. The State Tax Commission sustained the County Board of Equalization. Petitioner's representatives also pointed to the access issues, the costs in bringing utilities to the properties and the lack of visibility to indicate that these were significant detriments to the value. However, Petitioner provided no basis to either adjust the 2003 value up for market appreciation, or reduce the County value to account for costs and other issues with development.

It was the position of Respondent's representatives that they did not have an agreement with Petitioner to base the 2005 value on the 2004 value with some percentage increase for market appreciation.

Respondent submitted an appraisal prepared by RESPONDENT REPRESENTATIVE 3. RESPONDENT REPRESENTATIVE 3 attempted to value the property taking into account the costs and problems with the property that would make development more difficult. Based on this consideration, it was RESPONDENT REPRESENTATIVE 3's conclusion that the County Board of Equalization had overvalued the subject property. RESPONDENT REPRESENTATIVE 3's value for all five parcels combined was \$\$\$\$\$. In reaching his conclusion he considered three sales comparables which had been gravel pits like those that were being reclaimed for other purposes like the subject's property. Two of the

comparables were very distant in location from the subject property. The third sale was near as far as location, but the date of the sale had occurred during 2001.

Although, there were issues with the distance of some of the comparables and the adjustments that RESPONDENT REPRESENTATIVE 3 made in the appraisal, it is the Commission's conclusion that RESPONDENT REPRESENTATIVE 3's appraisal was the best evidence of value submitted at the hearing for the 2005 lien date. The Commission notes that Market values have generally increased County wide from January 1, 2003 to January 1, 2005. Therefore, some adjustment would need to be made or at least considered regarding the appraisal submitted by Petitioner that valued the property as of January 1, 2003. RESPONDENT REPRESENTATIVE 3's value is approximately a 27% increase from Petitioner's 2003 appraisal. Petitioner provided no evidence that the market appreciation had been a lesser amount for the subject properties over those two years. Certainly there will be costs in getting this property developed due to slope, access and the location of utilities. Petitioner has not been able to quantify an additional amount that should be deducted from RESPONDENT REPRESENTATIVE 3's appraisal for these issues, and it appears that RESPONDENT REPRESENTATIVE 3 has attempted to take these factors into consideration in reaching his value conclusion.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the value of the subject property as of January 1, 2005, for each individual parcel is as follows:

Parcel #####-1	\$ \$\$\$\$\$
Parcel #####-2	\$ \$\$\$\$\$
Parcel #####-3	\$ \$\$\$\$\$
Parcel #####-4	\$ \$\$\$\$\$
Parcel #####-5	\$ \$\$\$\$\$

The County Auditor is hereby ordered to adjust its records in accordance with this decision.

This Decision does not limit a party's right to a Formal Hearing. Any party to this case may file a written request within thirty (30) days of the date of this decision to proceed to a Formal Hearing. Such a request shall be mailed to the address listed below and must include the Petitioner's name, address, and appeal number:

Utah State Tax Commission
Appeals Division
210 North 1950 West
Salt Lake City, Utah 84134

Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

DATED this ____ day of _____, 2007.

Jane Phan
Administrative Law Judge

BY ORDER OF THE UTAH STATE TAX COMMISSION.

The agency has reviewed this case and the undersigned concur in this decision.

DATED this ____ day of _____, 2007.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner